

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>RON ALLEN HUNTER JR.</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No. 1:22-cv-78-SPB-RAL</b>
	)	
<b>v.</b>	)	
	)	
<b>Z. WAGGONER, C.O.,</b>	)	
	)	
<b>Defendant.</b>	)	

**MEMORANDUM ORDER**

This *pro se* civil action was opened on February 28, 2022 and referred to Chief United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Civil Rule 72(b). ECF No. 1. The Plaintiff, Ron Allen Hunter, Jr., is a former pretrial detainee who alleges that he was subjected to tortious conduct while detained at the Erie County Prison. At this point in the proceedings, Plaintiff's only remaining claims are Fourteenth Amendment excessive force claims asserted against Defendant "Z. Waggoner." According to the operative Amended Complaint, the violations occurred when Waggoner allegedly: (a) used mace against Plaintiff, despite knowing that Plaintiff's medical conditions precluded such use, and (b) handcuffed Plaintiff behind his back, despite knowing that Plaintiff was suffering from a rib injury.

Pending before the Court is Plaintiff's motion for summary judgment on his Fourteenth Amendment claims. ECF No. 110. On December 1, 2023, Chief Magistrate Judge Lanzillo issued a Report and Recommendation ("R&R") recommending that Plaintiff's summary judgment motion be denied. ECF No. 121. After recounting the appropriate standard of review, Judge Lanzillo determined that none of Plaintiff's filings supported the basic elements of his

claims, nor did they demonstrate the absence of any disputed material fact. To the extent Plaintiff's filings asserted facts at all (rather than legal conclusions), Judge Lanzillo found the factual assertions to be entirely without evidentiary support. Having found no basis in the record entitling Plaintiff to judgment as a matter of law, Judge Lanzillo recommended that Plaintiff's motion be denied without prejudice.

Objections to the Report and Recommendation were due to be filed no later than December 18, 2023. To date, no objections have been received.

After *de novo* review of the operative pleading and documents in the case, including Plaintiff's motion for summary judgment and all filings related thereto, along with the Magistrate Judge's Report and Recommendation, the following order is entered:

AND NOW, this 27th day of December, 2023, IT IS ORDERED that Plaintiff's motion for summary judgment, ECF No. [110], shall be, and hereby is, DENIED without prejudice.

IT IS FURTHER ORDERED that the Report and Recommendation of Magistrate Judge Lanzillo, issued on December 1, 2023, ECF No. [121], is adopted as the opinion of this Court.



SUSAN PARADISE BAXTER  
United States District Judge